

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BILLIE JOE CHAPMAN,

Petitioner,

v.

MARK FOXHALL, Warden/C.E.O.,
SEAN LYNCH, Douglas County
Attorney, and BRENDA LEUCK,
Public Defender of Douglas,

Respondents.

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8:17CV165

MEMORANDUM AND ORDER

This is a habeas corpus action by a pretrial detainee that I construe to have been filed pursuant to 28 U.S.C. § 2241. This case is related to 8:17CV137 which I have dismissed without prejudice. I take judicial notice of that case and my Memorandum and Order dismissing that case and refusing to issue a certificate of appealability. I incorporate the same herein. (*See* filing no. [7](#) in 8:17CV137.)

In short, principles of comity and federalism require a federal court to abstain from deciding a pretrial habeas claim under 28 U.S.C. § 2241 unless the prisoner demonstrates that (1) he or she has exhausted available state judicial remedies, and (2) special circumstances warrant federal intervention. As in the related case, Petitioner has failed to overcome those hurdles in this case.

Accordingly, I dismiss this case without prejudice and refuse to issue a certificate of appealability.

IT IS ORDERED that:

1. The habeas corpus petition (filing no. [1](#)) is dismissed without prejudice.

2. A separate judgment will be entered.
3. No certificate of appealability has been or will be issued.

DATED this 5th day of June, 2017.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge